

MIKE WINSOR

Office of the Commissioner of Securities and
Insurance, Montana State Auditor (CSI)

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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR**

IN THE MATTER OF YOLANDA)	
PASTOR, f.k.a. YOLANDA MIERZWA;)	CASE NO.: INS-2010-127
IRENE PASTOR f.k.a. IRENE MIERZWA;)	
and MARK KRAWCZYK,)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondents.)	
)	

This Consent Agreement and Final Order is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of Mont. Code Ann. § 2-4-603, and the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et. seq., (the Code); and Yolanda Pastor, Irene Pastor, and Mark Krawczyk (Respondents).

RECITALS

WHEREAS, on October 25, 2011, the CSI issued a Notice of Proposed Agency Action and Opportunity for Hearing (Notice) which is incorporated herein by reference;

WHEREAS, the Notice alleged that Respondents violated Mont. Code Ann. § 33-1-1202 by representing in applications of insurance that they were full-time employees of Construction Services Unlimited and/or Big Sky ICF Supply, LLC, when they were not full-time employees;

WHEREAS, the CSI and Respondents agree that the parties' best interests would be served by entering into this agreement;

NOW, THEREFORE, in consideration of the mutual undertakings established herein, the CSI and the Respondents enter into the following:

STIPULATIONS AND CONSENTS

Without admitting or denying any of the CSI's allegations, Respondents stipulate and agree to the following:

1. Respondents agree to pay an administrative penalty in the amount of \$1,500. The administrative penalty shall be due within ten days of the execution of the final order. The check must be payable to the Montana State Auditor's Office and must be mailed to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Mike Winsor, 840 Helena Avenue, Helena, MT 59601.
2. Respondents agree to pay restitution to Blue Cross Blue Shield of Montana in the negotiated amount of \$2,000. Restitution shall be due within ten days of the execution of the final order. The check must be payable to Blue Cross Blue Shield of Montana, the case number 2009-237-05 must be written on the check, and the check must be mailed to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Mike Winsor, 840 Helena Avenue, Helena, MT 59601.
3. The Respondents acknowledge the CSI has jurisdiction over the subject matter of the above-entitled proceeding.
4. The Respondents acknowledge that they have read and understand each term of this Consent Agreement and enter into this Consent Agreement voluntarily and without reservation.
5. The Respondents stipulate and agree with the CSI that this Consent Agreement resolves this matter.

6. The Respondents and the CSI hereby acknowledge and agree that this Consent Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce the Respondents to enter into this Consent Agreement.

7. The Respondents specifically and affirmatively waive a contested case hearing, waive their right to appeal, and elect to resolve this matter on the terms and conditions set forth herein.

8. The Respondents fully and forever release and discharge the CSI, and all CSI employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this administrative action.

9. Upon execution of this Consent Agreement, the CSI will fully and forever release and discharge the Respondents, Respondents' employees, and Respondents' agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this administrative action and will not commence any further administrative, civil, or other legal action based upon the regulatory non-compliance referenced hereinabove.

10. Nothing in this Consent Agreement may be construed as creating or limiting a private or separate cause of action.

11. The parties acknowledge and agree that this Consent Agreement may not be modified orally, and any subsequent modifications to this Consent Agreement must be mutually agreed upon in writing to be effective.


12. The parties agree that this Consent Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

13. The Respondents further understand that, upon the signing of the Final Order by the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner) or her representative, this Consent Agreement and Final Order will be an order of the CSI and failure to comply with it may constitute a separate violation of the Montana Insurance Code, as provided in Mont. Code Ann. § 33-1-318, and may result in subsequent legal action by the CSI.

14. This Consent Agreement shall be effective upon signing of the Final Order.

15. The Respondents acknowledge that this Consent Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 27th day of May, 2012.


MIKE WINSOR
Attorney for the CSI

DATED this 5 day of 18, 2012.


YOLANDA PASTOR

DATED this 5 day of 18, 2012.


IRENE MIERZWA

DATED this 5 day of 18, 2012.


MARK KRAWCZYK

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603, and the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq., and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS ORDERED that the foregoing Consent Agreement between the CSI and the Respondents is hereby adopted as if set forth fully herein.

DATED this 29th day of May, 2012.

MONICA J. LINDEEN

Commissioner of Securities and Insurance

By: 
CHRISTINE KAUFMANN
Acting Deputy Commissioner of Insurance

cc: Mike Winsor, CSI
Alanah Griffith, Attorney for Respondents